

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-378-MOC
(3:12-cr-13-MOC-DCK-6)**

OTIS SUTTON,)
)
Petitioner,)
)
vs.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)
_____)

ORDER

THIS MATTER is before the Court on its own motion, a Petitioner's Unopposed Motion to Stay Case, (Doc. No. 17), and the Government's Motion to Dismiss, (Doc. No. 16).

On June 17, 2016, Petitioner filed a Motion to Vacate pursuant to 28 U.S.C. § 2255 through counsel. (Doc. No. 1). The matter was then stayed for several years pending the Fourth Circuit's and United States Supreme Court's consideration of several pertinent cases. See (Doc. No. 6). Most recently, this case was stayed pending the Fourth Circuit's decision in United States v. Taylor, which has now been resolved. 979 F.3d 203 (4th Cir. 2020); (Doc. No. 15).

Counsel for Petitioner has now filed an Unopposed Motion to Stay Case pursuant to United States v. Ali, No. 15-4433, for which the Fourth Circuit heard oral argument on January 29, 2021. (Doc. No. 17). Petitioner argues that Ali is relevant to the instant case because Petitioner argues that the available Shepard documents do not conclusively establish the basis for the § 924(c) conviction. Counsel for the Government consents to the granting of this Motion. (Doc. No. 17 at 2).

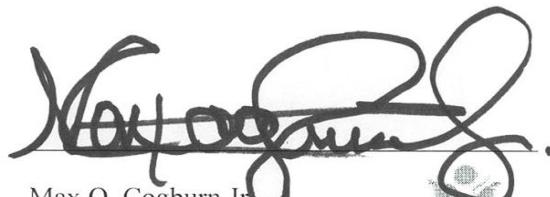
The Court finds that the Motion to Stay is in the interest of justice and judicial economy

and will be granted. The pending Motion to Dismiss, (Doc. No. 16), will be denied as moot.

IT IS, THEREFORE, ORDERED that:

1. Petitioner's Unopposed Motion to Stay Case, (Doc. No. 17), is **GRANTED**.
2. The Government's Motion to Dismiss, (Doc. No. 16), is **DENIED** as moot.
3. This case is held in abeyance pending the Fourth Circuit's consideration of United States v. Ali, No. 15-4433. The Government shall have **60 days** following the Fourth Circuit's issuance of its mandate in Ali file an answer, motion, or other response to the § 2255 Motion to Vacate.

Signed: March 2, 2021



Max O. Cogburn Jr.
United States District Judge